

EXHIBIT 7

November 30 2009 Orton FINAL

1

1 CAUSE NUMBER 2009-76323
2 KEVIN ORTON, NORTH PARK : IN THE DISTRICT COURT
3 OFFICE TOWER, L.P., AND :
4 NORTH PARK OFFICE TOWER, :
5 G.P., L.L.C. :
6 v. : HARRIS COUNTY, TEXAS
7 ALI CHOUDHRI, NAEEM :
8 CHOUDHRI, JETALL :
9 COMPANIES, INC., OSAMA :
10 ABDULLATIF, AND :
11 ERPILE, L.L.C. : 129th JUDICIAL DISTRICT
12

9

10

11

12 *****

13 NOVEMBER 30, 2009

14 *****

15

16

17 On the 30th day of November, 2009, the
18 following proceedings came on to be heard in the
19 above-entitled and -numbered cause before the
20 Honorable Alexandra Smoots-Hogan, Judge Presiding,
21 held in Houston, Harris County, Texas.

22 Proceedings reported by Certified Shorthand
23 Reporter and Machine Shorthand/Computer-Aided
24 Transcription.

25

DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256

2

November 30 2009 Orton FINAL

1

2

A P P E A R A N C E S

3

4 FOR THE PLAINTIFF, KEVIN ORTON:

Mr. Charles L. Duke, SBN 06184900

5 Attorney at Law

9225 Katy Freeway, Suite 200

6 Houston, Texas 77024

Telephone: 713-932-7776

7 Facsimile: 713-932-9782

8

FOR THE DEFENDANTS, NORTHPARK OFFICE TOWER, L.P.,

9 NORTHPARK OFFICE TOWER, G.P., L.L.C.,

ALI CHOUDHRI, and JETALL COMPANIES, INC.:

10 Mr. Richard E. Wakeland, SBN 00788912

Attorney at Law

11 5000 Travis

Houston, Texas 77002

12 Telephone: 713-530-9910

Facsimile: 713-789-3331

13

14 FOR THE DEFENDANT, ERPILE, L.L.C.:

Ms. Susan J. Taylor, SBN 19723665

15 TAYLOR LAW GROUP

Three Riverway, Suite 1800

16 Houston, Texas 77056

Telephone: 713-759-9970

17 Facsimile: 713-759-1980

18

19

20

21

22

23

24

25

DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256

3

1

P R O C E E D I N G

November 30 2009 Orton FINAL
2 THE COURT: We are on the record in

3 Cause Number 2009-76323, Kevin Orton, Northpark
4 Office, et al. versus Ali Choudhri, et al. If I
5 could have appearances for the record, counsel.

6 MR. DUKE: Charles Duke for the
7 plaintiff, Kevin -- sorry. -- Kevin Orton.

8 THE COURT: Okay.

9 MR. WAKELAND: Your Honor, I represent
10 Northpark, I --

11 THE COURT: Okay.

12 MR. WAKELAND: -- represent Ali
13 Choudhri, and I represent Jetall, and we --

14 THE COURT: Hold on. The reason I'm
15 making a face -- I'm confused because the style of
16 the case is Kevin Orton and Northpark versus Ali --
17 whatever, and you're telling me you represent one of
18 the plaintiffs and one of the defendants?

19 MR. WAKELAND: No, Your Honor. This is
20 in error. The Northpark Office Tower, L.P., and
21 Northpark Office Tower, G.P., L.L.C. --

22 THE COURT: Okay.

23 MR. WAKELAND: That is in error.

24 THE COURT: Okay. Just checking.

25 MR. DUKE: And we -- we understand

DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256

1 that.

2 MR. WAKELAND: And -- and -- and I've
3 already had -- we've already had conversation with

November 30 2009 Orton FINAL
4 counsel. It's just a typographical error.

5 THE COURT: All righty then. we'll
6 just mark it up that way.

7 MR. DUKE: Yeah. In the original
8 contract they were -- that was an issue on the other
9 side.

10 THE COURT: Okay. So --

11 MS. TAYLOR: Your Honor --

12 THE COURT: Yes. Yes, ma'am.

13 MS. TAYLOR: Susan Taylor for Erpile,
14 L.L.C.

15 THE COURT: Okay. All right. what do
16 we have going on here? It looks like a foreclosure
17 sale. Is this a fore --

18 MR. DUKE: There is a foreclosure set
19 for 10:00 o'clock or as quick as they can get to it
20 tomorrow on a building at 1415 Northpark -- I mean,
21 North Loop West.

22 THE COURT: Uh-huh.

23 MR. DUKE: It's about a six- to
24 ten-million-dollar -- maybe eight-million-dollar
25 building, something like that.

DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256

5

1 THE COURT: Okay. Got an issue with
2 stopping the sale for 14 days?

3 MS. TAYLOR: Yes, Your Honor.

4 MR. WAKELAND: I'm not the lender.

5 MS. TAYLOR: I'm the lender.

6 November 30 2009 Orton FINAL
THE COURT: Okay.

7 MS. TAYLOR: I represent the lender.
8 The person who's brought this suit is the guarantor
9 on the note, has no standing to stop the sale. The
10 note has been -- is matured. Matured in April of
11 this year.

12 THE COURT: Oh, okay.

13 MS. TAYLOR: And we're in -- we are in
14 contact with people who owe the note, and we're
15 seeing if we can work something out. But Mr. Orton,
16 who brought this, has no standing to prevent the
17 sale.

18 THE COURT: Okay.

19 MR. DUKE: Mr. Orton is the
20 guarantor -- personal guarantor on the note and to
21 the best of our knowledge has not been noticed as to
22 the details of the note being called, falling due,
23 being demanded for.

24 THE COURT: But he's not actually --

25 MR. DUKE: And we sure --

DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256

6

1 THE COURT: -- an owner?

2 MR. DUKE: -- don't want an \$8 million
3 building to be sold for 2.5 million, which is the
4 amount of the note.

5 THE COURT: Right. But I'm asking. Is
6 he the owner? What's going on?

7 MR. ORTON: Excuse me. I can answer

November 30 2009 Orton FINAL

8 that question. I'm a limited partner in Northpark --

9 THE COURT: No. Actually, you can't
10 speak, sir. Sit down.

11 Yes.

12 MR. WAKELAND: No, Your Honor.

13 MR. DUKE: This has a long history to
14 it. Your Honor --

15 MR. WAKELAND: It -- it does -- it
16 does --

17 MR. DUKE: Go ahead.

18 MR. WAKELAND: -- have a long history
19 to it. It does have a long history to it. He's a
20 personal guarantor on the note.

21 MR. DUKE: And a partner.

22 MR. WAKELAND: And he -- he -- he is a
23 limited partner. He -- he -- he's a limited partner
24 in a -- in the partnership.

25 THE COURT: Uh-huh.

DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256

7

1 MR. WAKELAND: And that's it. All
2 right?

3 THE COURT: The partnership, I guess,
4 owns the buil -- who owns the building? How about we
5 start with that.

6 MR. WAKELAND: The partnership owns the
7 building.

8 THE COURT: Okay.

9 MR. DUKE: Northpark, L.P.

November 30 2009 Orton FINAL
10 THE COURT: And your client is a part
11 owner, or --
12 MR. DUKE: Correct.
13 THE COURT: -- he's a partner?
14 MR. DUKE: Correct.
15 MR. WAKELAND: He's a limited partner,
16 Your Honor.
17 THE COURT: Okay. You keep telling me
18 limited partner. Is there something in the
19 partnership agreement that says he's a partner, but
20 with respect to the building, has no ownership
21 interest?
22 MR. WAKELAND: He's -- he has no
23 ownership interest in the building. He's a limited
24 partner in a partnership, Judge.
25 MR. DUKE: Partnership owns the
DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256

8

1 building. He owns part of the partnership.
2 MR. WAKELAND: He's a limited partner
3 in the partnership.
4 THE COURT: Okay.
5 MR. WAKELAND: He does not own a
6 building. He has no interest in the building other
7 than the fact that the partnership does.
8 MR. DUKE: I mean, it's derivative
9 interest, if you want to call it that.
10 MR. WAKELAND: If anything.
11 MR. ORTON: The partnership owns the

November 30 2009 Orton FINAL

12 building.

13 THE COURT: I'm sorry, sir. I don't
14 think that you heard me before. You're not before
15 the Court today.

16 All right.

17 MR. WAKELAND: Judge, our position
18 is --

19 THE COURT: Uh-huh.

20 MR. WAKELAND: -- is that we -- we do
21 not want to see the building foreclosed upon.
22 However -- all right? We, as a general partner and
23 as a representative of the partnership -- we did not
24 file this TRO. We are not asking for that because we
25 have been in negotiations with the lender, and we've

DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256

9

1 been attempting to work this out.

2 It -- our position is -- is that -- is
3 that this creates friction between -- between us and
4 the lender and -- and -- and interferes with our
5 ability to -- to work this out with the lender.

6 MR. DUKE: And our position is it's an
7 eight-million-dollar building for this two-and-a-
8 half-million-dollar note. He stands to take a hell
9 of a beating, and it's 4 o'clock in the day -- in the
10 afternoon on the day before it's going to be
11 foreclosed on -- 10:00 in the morning. You know?

12 So whatever negotiations and good deeds
13 and so forth -- and so forth obviously haven't

November 30 2009 Orton FINAL

14 worked, so that's why we need a TRO, to be able to
15 get in to this thing and sort it out.

16 MR. WAKELAND: Your Honor, I'm no real
17 estate expert, so I can't tell you how much that
18 building is worth.

19 THE COURT: Uh-huh.

20 MR. WAKELAND: I'm not going to rattle
21 off how much it is worth. All right? But I am aware
22 that -- that the lender feels that it has a value.
23 Okay? we feel that it has a value. Apparently
24 Mr. Orton feels it has value. All right?

25 The procedures, which I'm -- I'm not

DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256

10

1 expert in, that the lender has to go through
2 associated with foreclosure are designed to fairly
3 determine the value of the building at public sale.

4 Now, we -- we would love to avoid a
5 foreclosure. However -- all right? -- we are --
6 we -- we -- what we don't want to do is we don't want
7 to aggravate the lender by introducing something like
8 this in -- in the mix and -- and getting in the way
9 when we have negotiations already in place.

10 We have -- we have negotiated with the
11 lender. We've been in negotiations with the lender.
12 Mr. Orton has participated by giving us input. We
13 have asked for his input. We have received input
14 from him. We've gone back and forth with him, and we
15 have -- as our -- as our position in the partnership

November 30 2009 Orton FINAL
16 agreement, as -- and as the general partner, we have
17 communicated our negotiations with the lender, and we
18 are -- we are attempting to work something out, and
19 we hope --

20 THE COURT: Well, it --

21 MR. WAKELAND: -- that something
22 will --

23 THE COURT: -- sounds like -- hold on.
24 It sounds like stopping the sale tomorrow would give
25 you time to work it out, now, wouldn't it?

DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256

11

1 MS. TAYLOR: Problem is, Your Honor,
2 Mr. Orton is the plaintiff, and he has no standing
3 because he doesn't own the building.

4 And the second thing is -- is we've
5 been talking -- this note came due April 1st of this
6 year, so we've been working on this for, you know,
7 six months. And in order to stop the sale, we'd also
8 need a bond, I think, in the value of the note.

9 So there's no irreparable harm.
10 There's only money damages here, so I don't -- the
11 lender can't agree to a sale, and I don't think,
12 legally, that the plaintiff has shown a reason to
13 stop the sale.

14 THE COURT: It sounds like -- and
15 correct me if I'm wrong. Have you two still been in
16 negotiations even today to try and work this out
17 before tomorrow's sale?

18 November 30 2009 Orton FINAL
MR. WAKELAND: Not since -- not since
19 we received the notice of this hearing, and we
20 received -- we received -- we received notice of the
21 hearing, which originally was scheduled for, I think,
22 11:00 o'clock this morning --
23 THE COURT: Uh-huh.
24 MR. WAKELAND: We received that today
25 at about ten minutes after 12:00. All right? And

DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256

12

1 since that time I am unaware of any communications
2 that we've had with the lender back and forth. Now,
3 I -- I left the office -- I left the office at
4 about 2:00 --
5 THE COURT: Uh-huh.
6 MR. WAKELAND: -- or 1:50 or so. I
7 left the office at about 2:00 or 1:50, so I don't
8 know if there have been any communications with
9 the -- between us and the lender since that point in
10 time.

11 MR. DUKE: Well -- gee. You know, from
12 Orton's point of view, Your Honor, he's waited until
13 the last -- the 11th minute and 59th hour almost
14 hoping somebody would be able to work something out,
15 but it hasn't.

16 MR. WAKELAND: Your -- Your Honor,
17 we --

18 THE COURT: Uh-huh.

19 MR. WAKELAND: We have -- we have been

November 30 2009 Orton FINAL
20 in communication with Mr. Orton for an extensive
21 period of time.

22 THE COURT: Uh-huh.

23 MR. WAKELAND: We have been in
24 communication with Mr. Orton attempting to refinance
25 this note --

DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256

13

1 THE COURT: Okay.

2 MR. WAKELAND: -- all right? -- for an
3 extensive period of time. All right. We did not
4 hear from Mr. Orton until we provided him with notice
5 that -- that the lender was foreclosing on this
6 building. All right? And --

7 THE COURT: Hold on just one second.
8 okay?

9 Sir, is that your client in the back?

10 MR. DUKE: Mr. Orton.

11 MR. ORTON: Yes, it is, Your Honor.

12 THE COURT: I wasn't speaking to you.
13 I'm speaking to your lawyer.

14 MR. DUKE: Would you like him to wait
15 out in the hallway?

16 (There was a discussion off the record,
17 and Mr. Duke escorted Mr. Orton out of the
18 courtroom.)

19 MR. DUKE: You know, it's emotional for
20 him, Your Honor. I apologize on Mr. Orton's behalf.

21 THE COURT: Uh-huh.

22 November 30 2009 Orton FINAL
MR. WAKELAND: Judge, if I may

23 continue --

24 THE COURT: You may. Go ahead --

25 MR. WAKELAND: We --

DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256

14

1 THE COURT: -- now.

2 MR. WAKELAND: Again, we -- we had
3 attempted to communicate with him for a period of
4 months. We did not hear from him until the lender
5 filed this notice of foreclosure, and we notified him
6 of that notice of foreclosure.

7 MR. DUKE: Well, then --

8 MR. WAKELAND: And this -- Mr. Orton --
9 Mr. Orton wrongfully placed the partnership in
10 bankruptcy back in January of '09. He has repeatedly
11 taken action that has hindered and interfered with
12 the general partner's ability to -- to conduct
13 business, do things for the partnership that the
14 general partner needed to do in a timely manner to be
15 able to avoid this foreclosure, and this is just the
16 latest step that he's taken, which -- while he may
17 think that they are beneficial acts, they have
18 generally just been hindrances.

19 Since -- since the notice of
20 foreclosure -- since we sent him the notice of
21 foreclosure from the lender we have been in
22 communication with Mr. Orton. We have communicated
23 back and forth on -- on how we can negotiate with the

November 30 2009 Orton FINAL
24 lender. we have -- several proposals have floated
25 back and forth. They've been a litany of e-mails.

DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256

15

1 THE COURT: Uh-huh.
2 MR. WAKELAND: And -- and so at this
3 particular point in time, while we would not like to
4 see the foreclosure take place, we feel that -- that
5 the lender is --
6 (Mr. Orton enters courtroom.)
7 MR. DUKE: Excuse me, Your Honor.
8 THE COURT: You know what? You know,
9 stop right there. I think I'm done at this point
10 because, you know, I can take a lot of things, but
11 I'm tired of dealing with your client, and I don't
12 think you can get your client under control.
13 It sounds like you all -- I don't know
14 if you have some more talking you need to do.
15 I don't know what you're going to do
16 with your client, sir, but I'm just not going to go
17 forward on this today. All right? That's it.
18 (End of proceeding.)
19
20
21
22
23
24
25

November 30 2009 Orton FINAL
DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256

16

1 THE STATE OF TEXAS)
2 COUNTY OF HARRIS)

3

4 I, Donna King, Official Court Reporter in
5 and for the 164th Judicial District Court of Harris
6 County, Texas, do hereby certify that the above and
7 foregoing contains a true and correct transcription
8 of all portions of evidence and other proceedings
9 requested in writing by counsel for the parties to be
10 included in this volume of the Reporter's Record in
11 the above-styled and -numbered cause, all of which
12 occurred in open court or in chambers and were
13 reported by me.

14 I further certify that this Reporter's
15 Record of the proceedings truly and correctly
16 reflects the exhibits, if any, admitted by the
17 respective parties.

18 I further certify that the total cost for
19 the preparation of this Reporter's Record is
20 \$_____ and was paid/will be paid by
21 _____.

22

23 WITNESS MY OFFICIAL HAND this, the ____ day
24 of _____, 2009.

25

26

27

28

29

30

31

32

33

DONNA KING, CSR, RPR
OFFICIAL COURT REPORTER
(713) 368-6256